

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JOJO EJONGA,

Plaintiff,

Case No. C12-575-RAJ-JPD

DANIEL T. SATTERBURG,

Defendant.

REPORT AND RECOMMENDATION

On April 5, 2012, plaintiff submitted to the Court for filing a civil rights complaint under 42 U.S.C. § 1983 together with an application to proceed with this action *in forma pauperis*. Plaintiff alleged in his complaint that King County Prosecutor Daniel Satterburg violated his constitutional rights by holding plaintiff to answer for a crime without obtaining a grand jury indictment, and by threatening to amend the charges against plaintiff if plaintiff elected to stand trial. Plaintiff failed to make clear in his complaint the precise nature of the relief he is seeking.

On May 3, 2012, after reviewing plaintiff's submissions, this Court issued an Order granting plaintiff's application to proceed *in forma pauperis* and an Order directing plaintiff to

1 show cause why this action should not be dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B). The
2 Court noted in its Order to Show Cause that it appeared the lone defendant in this case, Daniel
3 Satterburg, was immune from liability because the actions complained of by plaintiff were taken
4 by defendant Satterburg, or his subordinates, in their respective roles as prosecutors for King
5 County, and in the context of plaintiff's state court criminal proceedings. *See Imbler v.*
6 *Pachtman*, 424 U.S. 409 (1976).

7 The Court further noted in its Order to Show Cause that even if defendant Satterburg
8 were not entitled to immunity, the action could not proceed because plaintiff's state court
9 criminal proceedings were ongoing and his complaint did not reveal any extraordinary
10 circumstances which would justify this Court's intervention in those proceedings. *See Younger*
11 *v. Harris*, 401 U.S. 37 (1971).

12 On May 10, 2012, plaintiff filed a response to the Order to Show Cause. Plaintiff
13 identifies therein the federal constitutional rights he believes have been violated by the conduct
14 of defendant Satterburg during the course of his criminal prosecution, and indicates in his
15 conclusion that he is seeking dismissal of his state court criminal case based upon those alleged
16 violations. As plaintiff has clarified that he is seeking injunctive relief in this action rather than
17 monetary damages, the immunity issue does not come into play. However, plaintiff offers
18 nothing in his response to the Order to Show Cause to demonstrate that this Court's intervention
19 in his ongoing state court proceedings is appropriate at this juncture.

20 When a complaint is frivolous, malicious, fails to state a claim on which relief may be
21 granted, or seeks monetary relief against a defendant who is immune from such relief, the Court
22 may dismiss an *in forma pauperis* complaint before service of process under 28 U.S.C.
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1 § 1915(e)(2)(B). Because plaintiff fails to state a claim upon which relief may be granted in this
2 civil rights action, this Court recommends that plaintiff's complaint, and this action, be
3 dismissed, without prejudice, pursuant to § 1915(e)(2)(B). A proposed Order accompanies this
4 Report and Recommendation.

5 DATED this 14th day of June, 2012.

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7 JAMES P. DONOHUE
United States Magistrate Judge

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